

REMARKS

Claims 1-8 remain pending in the above-identified application, and stand ready for further action on the merits.

The amendments made herein to claims 1, 3 and 4 do not incorporate new matter into the application as originally filed. For example, the amendment to claim 1 finds support in the original specification (*see page 3, lines 12-16; page 4, lines 1-11; page 6, lines 8-10; and page 8, lines 11-14*), drawings (*see Figures 1-2*) and claims. More particularly, Figures 1-2 of the application, and the above noted portions of the instant specification, collectively show embodiments containing and/or wherein:

“a plurality of under-waist elastic members that are different from the continuous waist elastic member”;

“the continuous waist elastic member and the plurality of under-waist elastic members do not overlap with each other” ;

“a pair of longer side portions of said diaper each being respectively provided with a sheet forming an upright cuff and containing leg elastic members”; and

“the under-waist portion having said fastening tapes directly attached thereto”.

The above noted portions of the specification, and Figures 1-2 of the application also support the following underlined recitations recited in claim 1.

“...wherein said under-waist elastic members are fixedly disposed in at least areas extending outwardly from each longer side of the absorbent member in their stretched state, while the liquid-permeable topsheet or the liquid-impermeable backsheets or the sheet forming an upright cuff are expanded to the plane, so as to manifest contractibility but are not disposed in at least a middle of an area where said absorbent member exists, and said under-waist portion having said fastening

tapes has a greater extension stress than said waist opening portion having said fastening tapes in a width direction of the diaper, and wherein said under-waist elastic members are fixed between the sheet forming the upright cuff and the liquid-impermeable backsheet."

Regarding the amendment to claim 4, its dependency is changed based on the cancellation of claim 3, and the term "pair of" has been deleted from claim 4, in order to ensure antecedent basis in independent claim 1.

Additionally, claim 3 has been cancelled to prevent a redundancy with amended claim 1.

Accordingly, the amendments made herein to the claims do not incorporate new matter into the application as originally filed, and thus entry thereof is respectfully requested at present.

Provisional Examiner Interview Request

Should the present reply not result in an allowance of any pending claim, the Examiner is respectfully requested to contact the undersigned so that an interview can be scheduled at the Examiner's earliest convenience, so that further prosecution of the instant case can expeditiously proceed towards allowance.

Claim Language Interpretation

The US PTO's comments at paragraph "2." of the office action do not affect the literal scope of the pending claims and/or limit the equivalents that are protected and encompassed thereby.

Further, reconsideration of such comments is required, due to the instant amendment made to the claims, since many of the Examiner's comments are either inapplicable and/or no longer relevant to the currently amended claims (*e.g., see instant amended claim 1*).

Claim Rejection 35 USC § 102(b)

Claims 1-8 have been rejected under 35 USC § 102(b) as being anticipated by *Clear et al. US '584* (US 5,368,584) and thereby *Buell et al. US '274* (US 5,221,274). Reconsideration and withdraw of this rejection is respectfully requested based on the amendments made herein to the claims and the following remarks.

Incorporation of Earlier Remarks by Reference

The instant rejection is maintained from a prior office action. As such, comments set forth in the Inventors prior reply of April 29, 2005 (*entered after filing RCE*) responding to the same rejection are incorporated herein by reference in their entirety, since such comments remain cogently relevant to a consideration of the patentability of the instantly pending claims 1-8. In particular, the Examiner's attention is directed to page 8, line 7 to page 21, line 10 of said prior reply of April 29, 2005.

Legal Standard for Determining Anticipation

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "When a claim covers several structures or compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claim is known in the prior art." *Brown v. 3M*, 265 F.3d 1349, 1351, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001) "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson*

v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Legal Standard for Determining Prima Facie Obviousness

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

“There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art.” *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998) (The combination of the references taught every element of the claimed invention, however without a motivation to combine, a rejection based on a *prima facie* case of obvious was held improper.). The level of skill in the art cannot be relied upon to provide the suggestion to combine references. *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999).

“In determining the propriety of the Patent Office case for obviousness in the first instance, it is necessary to ascertain whether or not the reference teachings would appear to be sufficient for

one of ordinary skill in the relevant art having the reference before him to make the proposed substitution, combination, or other modification.” *In re Linter*, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. “The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art.” *In re Kotzab*, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also *In re Lee*, 277 F.3d 1338, 1342-44, 61 USPQ2d 1430, 1433-34 (Fed. Cir. 2002) (discussing the importance of relying on objective evidence and making specific factual findings with respect to the motivation to combine references); *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Clarifying Comment for Consideration by US PTO

In each of pending independent claims 1 and 5 the following recitation occurs:

“...wherein said under-waist elastic members are fixedly disposed in at least areas extending outwardly from each longer side of the absorbent member **in their stretched state**....” (emphasis added)

The term of “*in their stretched state*” as used in claims 1 and 5 means that the under-waist elastic members are in a stretched state when the diaper is expanded (as shown in Figure 2 of the Application). On the other hand, when in a natural state (as shown in Figure 1 of the Application),

the under-waist elastic members are able to shrink/contract (due to their elastic contractibility), and wrinkles are thereby formed in the under-waist portion of the diaper (*see/compare Figures 1 and 2*). The wrinkles being so formed, evidence the elasticity contractibility that is present in the under-waist portion of the inventive diapers.

Distinctions over the Cited Art

In *Buell US '274*, its elasticized waistband 35 is disposed in a portion not having fastening tapes. The present invention is distinguished from the prior art *Buell US '274* reference on this point. For example, in instantly amended claim 1, it is positively recited “the under-waist portion having said fastening tapes directly attached thereto”.

Furthermore, in the prior art of *Buell US '274*, since the provided elastic member is a sheet, when the elastic member is pulled in a width-wise direction of the diaper, the elastic member contracts/shrinks in a perpendicular direction to the pulling direction (i.e., it contracts in a vertical direction). Thus, expansion and contraction of the provided elastic member in the width direction negatively affects expansion and contraction of the elastic member in the vertical direction.

On the other hand, in the present invention (*see claim 1*), it is positively recited that:

“...the waist opening portion being provided with a continuous waist elastic member in a width direction of the diaper, and the under-waist portion being positioned right below the waist opening portion and being provided with a plurality of under-waist elastic members that are different from the continuous waist elastic member, in the width direction of the diaper....” (emphasis added)

AND

“...wherein the continuous waist elastic member and the plurality of under-waist elastic members do not overlap with each other....”

Accordingly, in the instantly claimed invention, the continuous waist elastic member and the plurality of under-waist elastic members are able to separately expand and contract, and are not influenced by each other.

Further, it is submitted that the “elastic side panel members 90” which *Buell et al. US ‘274* and *Clear et al. US ‘584* provide for are different from the recited “under-waist” member in the inventive diapers under consideration. This is because the “elastic side panel members 90” extend over both any asserted waist opening portion and under-waist portion in the absorbent articles of *Buell et al. US ‘274* and *Clear et al. US ‘584*.

For example, *as touched upon above*, an elastic member when stretched in a longitudinal direction, also experiences a change in a perpendicular (transverse) direction. As such when an elastic member is stretched in one direction (e.g., longitudinal), it is also shortened in another direction (e.g., transverse). To envision this, the Examiner need only consider what would happen when exerting an outward pulling force on a sheet or strip of adhesive material. While the material stretches longitudinally it will at the same time shorten in the traverse direction (e.g., in the middle sections thereof).

As such, when an absorbent member of the cited art of *Buell et al. US ‘274* or *Clear et al. US ‘584* is set with the pulling of fastening tapes, the “elastic side panel members 90” shorten in a transverse direction, thereby resulting in a loss of fitness to the wearer and a varying of a fixed position on the waist portion of the diaper, which is undesirable.

In contrast, because in the instantly claimed disposable diapers, the waist opening portion is provided with a continuous waist elastic member that is separate from the under-waist portion of the diaper and the plurality of under-waist elastic members, as well as the fastening tapes that are attached *directly* to the under-waist portion of the diaper, such problems do not occur or are much less likely to occur in the disposable diapers of the instant invention, than in the absorbent articles of *Clear et al. US '584* or *Buell et al. US '274*.

In the *Clear et al. US '584* and *Buell et al. US '274* patents, the presence of an elasticized waist feature is provided, which is on the opposite side of where the fastening tapes 92 exist (i.e., on the front side of a wearer), with the same being a main aspect of each of the inventions thereof.

For example, in the *Buell et al. US '274* patent, claim 1 thereof recites as follows (*wherein item numbers and bold italics have been added for emphasis*):

1. A disposable absorbent article having a lateral centerline, and a lateral direction parallel to the lateral centerline, the absorbent article comprising: a containment assembly comprising an absorbent core having side edges and waist edges; and

an elastic waist feature at least extending longitudinally outwardly from one of said waist edges of said absorbent core, *said elastic waist feature comprising*

an elasticized waistband comprising

(i) *a shaping panel zone 136* being elastically extensible in at least the lateral direction,

(ii) *a waistline panel zone 138* resiliently flexurally joined with said shaping panel zone, said waistline panel zone being elastically extensible in at least the lateral direction, and

(iii) a predisposed, resilient, waistband flexural hinge zone joining said shaping panel zone and said waistline panel zone for allowing relative flexural bending between said shaping panel zone and said waistline panel zone when forces are applied and for providing a restoring force to resiliently return said shaping panel zone and said waistline panel zone to essentially their preceding in-use configuration when the forces are removed.

Likewise, at column 51, lines 41-45 of the *Buell et al. US '274* patent, it is disclosed that:

“Since in a preferred embodiment of the elastic waist feature, a segment of the backsheet has been removed to form the waistline panel zone, the extension forces of the waistline panel zone are less than the extension forces of the shaping panel zone.”

However, the above description pertains to the side of the absorbent member that does not have fastening tapes, and does not pertain to the side of the absorbent member that contains fastening tapes. This is of course, completely unlike claims 1 or 5 of the present invention, which are reproduced below (with emphasis added):

Claim 1.

A disposable diaper which has a substantially elongate configuration and comprises a main body having a pair of side edges, and the main body having a liquid-permeable topsheet, a liquid-impermeable backsheet, a liquid-retentive absorbent member interposed between said topsheet and said backsheet and a pair of fastening tapes provided on respective side edges of said main body,

a waist opening portion and an under-waist portion being present in a portion of the diaper, with the under-waist portion having said fastening tapes directly attached thereto, the waist opening portion being provided with a continuous waist elastic member in a width direction of the diaper, and the under-waist portion being positioned right below the waist opening portion and being provided with a plurality of under-waist elastic members that are different from the continuous waist elastic member, in the width direction of the diaper, and

a pair of longer side portions of said diaper each being respectively provided with a sheet forming an upright cuff and containing leg elastic members,

wherein the continuous waist elastic member and the plurality of under-waist elastic members do not overlap with each other,

wherein said under-waist elastic members are fixedly disposed in at least areas extending outwardly from each longer side of the absorbent member in their stretched state, while the liquid-permeable topsheet or the liquid-impermeable backsheet or the sheet forming an upright cuff are expanded to the plane, so as to manifest contractibility but are not disposed in at least a middle of an area where said absorbent member exists, and said under-waist portion having said fastening tapes has a greater extension stress than said waist opening portion having said fastening tapes in a width direction of the diaper, and

wherein said under-waist elastic members are fixed between the sheet forming the upright cuff and the liquid-impermeable backsheet.

Claim 5.

A disposable diaper which has a substantially elongate configuration having a first end portion at one end thereof, and a second end portion at a second end thereof, and comprising a main body having a pair of side edges, and the main body having a liquid-permeable topsheet, a liquid-impermeable backsheet, a liquid-retentive absorbent member interposed between said topsheet and said backsheet and a pair of fastening tapes provided on respective side edges of said main body,

a waist opening portion and an under-waist portion being present on the first end portion of said diaper, with the under-waist portion having said fastening tapes directly attached thereto, the waist opening portion being provided with a continuous waist elastic member in a width direction of the diaper, and the under-waist portion being positioned directly below the waist opening portion and being provided with a plurality of under-waist elastic members, in the width direction of the diaper, and

a pair of longer side portions of said diaper being respectively provided with a pair of leg elastic members,

wherein said under-waist elastic members are fixedly disposed in at least areas extending outwardly from each longer side of the absorbent member in their stretched state so as to manifest contractibility but are not disposed in at least a middle of an area where said absorbent member exists, and said under-waist portion has a greater extension stress than said waist opening portion in a width direction of the diaper. (emphasis added)

Similarly, while the “waistline panel zone 138” or “shaping panel zone 136” of the cited *Clear et al. US ‘584* and *Buell et al. US ‘274* references does exist outwardly, they are not from each longer side of the absorbent side member, but instead from the shorter side of the absorbent member (as is shown in Fig. 1 or 2B of the *Buell et al. US ‘274* reference). This is quite different from the instant invention being claimed (as recited in above claims 1 and 5), wherein “*said under-waist elastic members are fixedly disposed in at least areas extending outwardly from each longer side of the absorbent member....*”

Apart from the above considerations, each of the *Clear et al. US '584* and *Buell et al. US '274* references have elastic side panel and elastic waistband on the side thereof where fastening tapes exist. However there is no citation of any comparison between their elasticity's, even though the following can be ascertained, based on the description at column 45, lines 23-30 of the *Buell et al. US '274* reference; namely, that the extension forces of the side panels can be less than the extension forces of the waistband (*which is quite the opposite to the instant invention being claimed*):

“While the extension forces of the elasticized waistband 35 may be greater than the extension forces of the elasticized side panels 30, in a preferred embodiment of the present invention, the extension forces of the elasticized waistband 35 at its designed extensions is less than or equal to the extension forces of each elasticized side panel 30 at its designed extensions.” (see column 45, lines 23-30 of Buell et al. US '274; emphasis added)

Further, in the *Buell et al. US '274* reference, the side panel is attached to the other members in a substantially *untensioned* condition, whereas in the instant invention the plurality of body surrounding elastic members is attached with an extended form.

*“In an especially preferred embodiment, the elastic side panel member 90 is operatively associated in the ear flap 88 by joining the elastic side panel member 90 to the topsheet 24, the backsheet 26, or both while the elastic side panel member 90 is in a substantially **untensioned** condition.” (see column 35, lines 57-62 of Buell et al. US '274; emphasis added)*

Such a recitation in the cited art is of course contrary to claims 1 and 5 of the instant invention, which respectively recite as follows:

“...wherein said under-waist elastic members are fixedly disposed in at least areas extending outwardly from each longer side of the absorbent member in their stretched state, while the liquid-permeable topsheet or the liquid-impermeable backsheet or the sheet forming an upright cuff are expanded to the plane, so as to manifest contractibility...” (See claim 1, emphasis added.)

“...wherein said under-waist elastic members are fixedly disposed in at least areas extending outwardly from each longer side of the absorbent member in their stretched state so as to manifest contractibility...” (See claim 5; emphasis added).

The above stated differences clearly evidence that neither the *Buell et al. US ‘274* nor the *Clear et al. US ‘584* patent is capable of anticipating applicants claimed invention. This is because neither of the references discloses or teaches each of the instantly claimed elements.

In order to apply the instant rejection against the pending claims under the provisions of 35 USC § 102, the US PTO relied on the fact that the cited *Clear et al. ‘584* patent incorporates certain portions of the *Buell et al. ‘274* disclosure therein.

However, it is submitted that even upon incorporating the disclosure of *Buell et al. US ‘274* into the disclosure of *Clear et al. US ‘584*, one does not arrive at the instant invention as claimed. That is, one does not achieve an absorbent member having each of the limitations recited in the pending claims, and as a result the instant invention as claimed is not anticipated.

While *Clear et al. US ‘584*, may inherently discuss the possibility of a diaper having a waistband portion, that may be worn on either the front or back side of a wearer (*e.g., see column 16, lines 62-68*), the mere addition of the disclosure of *Buell et al. US ‘274* to that of *Clear et al. US ‘584*, does not result in one of the advantageous absorbent articles of the invention, or meet all of the limitations of any of pending claims 1-8.

In setting forth the original rejection, the US PTO appeared to be applying the following logic and/or reasoning.

- (i) *Clear et al. ‘584* incorporates the disclosure of *Buell et al. ‘274*;
- (ii) *Clear et al. ‘584* inherently teaches the possibility of a waist region on the front or back of a wearer;

- (iii) *Buell et al.* '274 only teaches positioning its waistband 35 on the front of the wearer;
- (iv) *Buell et al.* '274 teaches the extension force of the waistband 35 is less than that of the side panel 30; and
- (v) Based on items (i) - (iv) above, *Clear et al.* '584, must inherently provide for the *Buell et al.* '274 waistband 35 and side panel 30 with the relation of force in the waistband being \leq to that in the side panel.

However, such logic and such reasoning on the US PTO's part does not arrive at the instant invention as claimed under the provisions of 35 USC § 102 or 35 USC § 103(a), based on the following considerations.

In the disclosure of *Buell et al.* '274, at column 45, lines 23-30 the following is taught regarding the relative extension force strengths of the waistband and side panel.

...While the extension forces of the elasticized waistband 35 may be greater than the extension forces of the elasticized side panels 30, in a preferred embodiment of the present invention, the extension forces of the elasticized waistband 35 at its designed extensions is less than or equal to the extension forces of each elasticized side panel 30 at its designed extensions.(emphasis added).

However, even based on this disclosure in *Buell et al.* '274, one of ordinary skill would not be able to understand which extension force (waistband or side panel) is greater in absorbent articles of either *Buell et al.* '274, or *Clear et al.* '584 (which incorporates the *Buell et al.* '274 disclosure). This is because of the following points:

- (1) In both the embodiments of *Buell et al.* '274 and *Clear et al.* '584, there occur side panels that run and overlap with the waist portion or an end of the waistband portion. As a result, it is difficult or impossible to know or determine, with any precision what the extension force of the waistband portion is verses that of the side panels.
- (2) When comparing the extension force of the waistband of *Clear et al.* '584 or *Buell et al.* '274, with the side panel, one would necessarily be comparing a combined extension force of the waistband and side panel portions with that of the side panels (due to side panel overlap with the waist portion or an end of the waistband portion).

Consequently, one skilled in the art, would find it irrational to conclude that the disclosure of *Clear et al. '584* (or *Buell et al. '274*) would ever meet the limitations of the instant claims.

Apart from the above considerations, in *Buell et al. '274* at column 45, lines 30-42, the following is disclosed regarding extension strengths.

... An elasticized waistband 35 having lower extension forces than that of the elasticized side panels 30 provides for easy stomach movement without displacing the diaper on the child. The higher extension force elasticized side panels allow for small dimensional changes over the hip and under the stomach to keep the product comfortably in tension on the wearer. This design provides better fit, less leakage and improved comfort for the wearer through the reduction of sagging, gapping, rollover and roll-in at the front of the diaper and overall sliding/slipping of the diaper or diaper absorbent core on the wearer during use. (Emphasis Added)

Briefly, as can be understood from the above disclosure in *Buell et al. '274*, the phrase “an elasticized waistband 35 having lower extension forces” is aimed at being used on the front side, and not on the backside having fastening tapes. On the other hand, the phrase “the higher extension force elasticized side panels 30”, which is thereafter described is intended to be used on the backside (see *Figure 1*). As such, the disclosure of *Buell et al. '274* intends that one utilize an elasticized waistband 35 and elasticized side panels 30 in a manner where the same are oppositely positioned to each other (see *Figure 1*).

The dimensional changes of the human waist are well known in the art, with the dimensional change of the human waist being bigger at the stomach side/front side waist portion than at the backside waist portion. As a result, it is preferable for the stomach side/front side waist portion of a diaper to elongate more easily than the backside waist portion thereof. From such a viewpoint, the above noted disclosure of *Buell et al. '274* can be better understood.

Thus, even if the disclosure of *Buell et al.* '274 is technically incorporated into the disclosure of *Clear et al.* '584, one of ordinary skill in the art would not arrive at the instant invention as claimed, based on the fact that (i) *Buell et al.* '274 only teaches positioning its waistband 35 on the front of the wearer, and (ii) *Buell et al.* '274 is only concerned with placing fastening tapes on backside of its absorbent member. Accordingly, it follows that one utilizing the incorporated teachings of *Buell et al.* '274 in *Clear et al.* '584, would not envision or otherwise reach a disposable diaper as instantly claimed, wherein the fastening tapes are positioned in the following manner (*see* instant claim 1):

... a waist opening portion and an under-waist portion being present in a portion of the diaper, with the under-waist portion having said fastening tapes directly attached thereto, the waist opening portion being provided with a continuous waist elastic member in a width direction of the diaper, and the under-waist portion being positioned right below the waist opening portion and being provided with a plurality of under-waist elastic members that are different from the continuous waist elastic member, in the width direction of the diaper..." (*See claim 1, emphasis added.*)

...a waist opening portion and an under-waist portion being present on the first end portion of said diaper, with the under-waist portion having said fastening tapes directly attached thereto, the waist opening portion being provided with a continuous waist elastic member in a width direction of the diaper, and the under-waist portion being positioned directly below the waist opening portion and being provided with a plurality of under-waist elastic members, in the width direction of the diaper....(*See claim 5, emphasis added.*)

It is noted that nowhere in the cited disclosure of *Buell et al.* '274, is there provided any teaching or disclosure regarding any aim to control the relational forces in the waistband and the side panel for fitting or following to the body when its absorbent member is being worn by a wearer, and there is no aim to control the relational force where the fastening tapes are placed. This is, of course, counter to the purpose and function of the disposable diapers of the instant invention.

The above stated differences clearly evidence that neither the *Buell et al.* '274 nor the *Clear et al.* '584 patent is capable of anticipating applicants claimed invention. This is because neither reference discloses or teaches each of the instantly claimed elements and limitations.

Additional Comments

The Examiner has not set forth a rejection under the provisions of 35 USC § 103(a), however, for purposes of completeness it is submitted that the cited art of record also fails to render the instant invention obvious under the provisions of 35 USC § 103(a), since such references, whether considered singularly or in combination, completely fail to provide for, or otherwise disclose a disposable diaper as instantly claimed, and also fail to provide any motivation to those of ordinary skill in the art that would allow them to arrive at the same.

CONCLUSION

Based upon the amendments and remarks presented herein, the Examiner is respectfully requested to issue a Notice of Allowance clearly indicating that each of the pending claims 1-8 are allowed and patentable under the provisions of Title 35 of the United States Code.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Bailey (Reg. No. 32,881) to expedite prosecution in connection with the present application towards allowance.

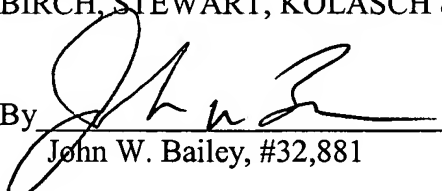
If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: December 20, 2005

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By


John W. Bailey, #32,881

JWB/jwb
0445-0315P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000